

R277-407 received final approval by the Utah State Board of Education on July 14, 2017. R277-407 is published in the August 15, 2017 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of September 21, 2017.

## **R277. Education, Administration.**

### **R277-407. School Fees.**

#### **R277-407-[2]1. Authority and Purpose.**

[A-](1) This rule is authorized under:

(a) Utah Constitution Article X, Section[s 2 and] 3<sub>1</sub>, [of the Utah Constitution] which vests general control and supervision [of the]over public education[-system] in the [State] Board [of Education];

(b) Article X, Section 2 of the Utah Constitution, which [and] provides that:

(i) public elementary [and secondary] schools shall be free; and [except]

(ii) secondary schools shall be free, unless the Legislature authorizes [that]the imposition of fees [may be imposed in secondary schools if authorized by the Legislature.];

(c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(d) Subsection 53A-12-102(2), which authorizes the [State] Board [of Education] to adopt rules regarding student fees. [This rule is consistent with the State Board of Education document, Principles Governing School Fees, adopted by the State Board of Education on March 18, 1994.]

(2) This rule [is also consistent] also serves to comply with the Permanent Injunction[.] issued in [*Doe v. Utah State Board of Education,*] *Doe v. Utah State Board of Education*, Civil No. 920903376 (3rd District 1994).

[B-](3) The purpose of this rule is to:

(1)a [to] permit the orderly establishment of a [reasonable] system of reasonable fees;

(2)b [to] provide adequate notice to students and families of fees and fee waiver requirements; and

(3)c [to] prohibit practices that would exclude those unable to pay from participation in school-sponsored activities.

#### **R277-407-[4]2. Definitions.**

[A-](1)(a) "Fee"[:] means [A]any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods.

(b) An [A]admission fee[s], transportation charge[s], [and] or similar payment[s] to a third [parties are fees] party is a fee if the charge[s are] is made in connection with an activity or function sponsored by or through a school.

(c) For purposes of this [policy] rule, a charge[s] related to the National School Lunch Program [are] is not a fee[s].

[B-](2) "LEA" [means a local education agency, including local school boards/public school districts, charter schools, and,] includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[C-](3) "Optional [P]project"[:]—A] means a non-mandatory project chosen and retained by a student, for which the student covers the cost or provides the materials, in lieu of, or in addition to a [meaningful and productive] mandatory classroom project otherwise available to the student which would require only school-supplied materials.

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~~[D-](4)(a)~~ “Provision in ~~[L-]~~lieu of ~~[F-]~~fee ~~[W-]~~waiver” means an alternative to fee payment ~~[and]~~ or waiver of fee payment.

~~(b)~~ A plan under which fees are paid in installments or under some other delayed payment arrangement is not a waiver or provision in lieu of fee waiver.

~~[E-](5)(a)~~ “Student ~~[S-]~~supplies”~~[-t]~~ means items which are the personal property of a student which, although used in the instructional process, are also commonly purchased and used by persons not enrolled in the class or activity in question and have a high probability of regular use in other than school-sponsored activities.

~~(b)~~ ~~[The term]~~ “Student supplies” include~~[s]~~:

~~(i)~~ pencils~~[-]~~;

~~(ii)~~ paper~~[s]~~[-];

~~(iii)~~ notebooks~~[-]~~;

~~(iv)~~ crayons~~[-]~~;

~~(v)~~ scissors~~[-]~~;

~~(vi)~~ basic clothing for healthy lifestyle classes~~[-]~~; and

~~(vii)~~ similar personal or consumable items over which a student retains ownership.

~~(c)~~ ~~[The term]~~ “Student supplies” does not include items ~~[such as the foregoing]~~ listed in Subsection (5)(b) for which specific requirements such as brand, color, or a special imprint are set in order to create a uniform appearance not related to basic function.

~~[F-](6)~~ “Supplemental Security Income for children with disabilities” or “~~[S-]~~SSI” ~~[is]~~ means a benefit administered through the Social Security Administration that provides payments for qualified children with disabilities in low income families.

~~[G-](7)~~ “Temporary Assistance for Needy Families” or “~~[T-]~~TANF”~~[-]~~, ~~[(formerly AFDC)]~~ means a program, formerly known as AFDC, which provides monthly cash assistance and food stamps to low-income families with children under age 18 through the Utah Department of Workforce Services.

~~[H-](8)~~ “Textbook~~[-]~~” means a ~~[B-]~~book, workbook, ~~[and]~~ or materials similar in function, which are required for participation in a course of instruction.

~~[I-](9)~~ “Waiver~~[-]~~” means a ~~[R-]~~release from the requirement of payment of a fee and from any provision in lieu of fee payment.

### **R277-407-3. Classes and Activities During the Regular School Day.**

~~[A-](1)~~ No fee may be charged in kindergarten through sixth grades for:

~~(a)~~ materials~~[-]~~;

~~(b)~~ textbooks~~[-]~~;

~~(c)~~ supplies~~[-]~~; or

~~(d)~~ ~~[for]~~ any class or regular school day activity, including assemblies and field trips.

~~[B-](2)~~ A school may charge ~~[T-]~~textbook fees ~~[may only be charged]~~ in grades seven through twelve.

~~[C-](3)(a)~~ Notwithstanding, Subsection (1), a school may charge fees ~~[Fees may be charged]~~ to students in sixth grade ~~[only]~~ if the student attends a school that includes any grades [7, 8, 9, 10, 11, or 12] seven through twelve.

~~[All school and school district materials and information, including local board-~~

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~~approved fees and parent information, shall include notice that fees may be charged to sixth graders and fee waiver requirements apply.]~~

~~(b) If a school charges fees in accordance with Subsection (3)(a), the school shall annually provide notice to parents that the school will collect fees from sixth grade students and that the fees are subject to waiver.~~

~~[D.](4) If a class is established or approved, which requires payment of fees or purchase of [materials, tickets to events, etc.,] items in order for students to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades, the fees or costs for the class shall be subject to the fee waiver provisions of Rule R277-407-6.~~

~~[E.](5)(a) A school may require a [S]student[s of all] at any grade level[s may be required] to provide materials or pay for [their] an optional project[s], but a school may not require a student [may not be required] to select an optional project as a condition for enrolling in or completing a course.~~

~~(b) A school shall base mandatory course projects [Project-related courses must be based upon projects and] on experiences that are free to all students.~~

~~[F.](6)(a) A [S]school[s] shall provide [school] student supplies for [K]k-6 students.~~

~~(b) A school may require a student [may, however, be required] to replace student supplies provided by the school, which are lost, wasted, or damaged by the student through careless or irresponsible behavior.~~

~~[G.](7)(a) An elementary school or teacher may provide to parents or guardians a suggested list of student supplies.~~

~~(b) [The] A suggested list provided in accordance with Subsection (a) shall contain the express language in Subsection 53A-12-102([2]4)(c).~~

~~[H.](8) A school may require a [S]secondary student[s] [may be required] to provide [their own] student supplies, subject to the provisions of Section R277-407-6.~~

#### **R277-407-4. School Activities Outside of the Regular School Day.**

~~[A.](1) A school may charge a fee [Fees may be charged], subject to the provisions of Section R277-407-6, in connection with any school-sponsored activity, which does not take place during the regular school day, regardless of the age or grade level of the student, if participation in the activity is voluntary and does not affect a student's grade or ability to participate fully in any course taught during the regular school day.~~

~~[B.](2) A [Fees] fee related to an extracurricular [activities] activity may not exceed limits established by the LEA governing board.~~

~~(3) A [Schools] school shall collect [these] fees for school-sponsored activities consistent with LEA policies and state law.~~

#### **R277-407-5. General Provisions.**

~~[A.](1) [No] An LEA may not charge or assess a fee [may be charged or assessed] in connection with any class or school-sponsored or supported activity, including an extracurricular [activities] activity, unless the fee has been set and approved by the LEA's governing board and distributed in an approved fee schedule or notice in accordance with~~

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this rule.

~~[B:]~~(2)(a) An LEA governing board shall adopted a [F]fee schedule[s] and fee policies for the [entire] LEA [shall be adopted] at least once each year [by the LEA] in a regularly scheduled public meeting [of the LEA].

~~(b) An LEA shall provide public notice in accordance with Title 52, Chapter 4, Open and Public Meetings Act and shall encourage public [Provision shall be made for broad public notice and] participation in the development of fee schedules and waiver policies.~~

~~(c) An LEA shall keep [M]minutes of [LEA] meetings during which fee and waiver policies are developed or adopted, together with copies of approved policies, [shall be kept on file by the LEA and made available upon request] in accordance with Section 52-4-203.~~

~~[C:]~~(3)(a) [Each] An LEA shall adopt procedures to reasonably ensure that the parent or guardian of each child who attends a school within the LEA receives written notice of all current and applicable fee schedules and fee waiver policies[;].

~~(b) An LEA policy shall [including] include easily understandable procedures for obtaining a fee waiver[s] and for appealing a denial of a fee waiver, as soon as possible prior to the time when fees become due.~~

~~(4) An LEA shall include a [Copies] copy of the schedules and waiver policies [shall be included] with [all] registration materials provided to potential or continuing students.~~

~~[D:]~~(5)(a) A school may not deny a [No] present or former student [may be denied] receipt of transcripts or a diploma, nor may a school refuse to issue a grade for a course for failure to pay school fees.

~~(b) A school may impose a reasonable charge [may be made] to cover the cost of duplicating or mailing transcripts and other school records.~~

~~(c) A school may not [No] charge [may be made] for duplicating or mailing copies of school records to an elementary or secondary school in which [the] a former student is enrolled or intends to enroll.~~

~~[E:]~~(6) To preserve equal opportunity for all students and to limit diversion of money and school and staff resources from the basic school program, each LEA's fee policies shall be designed to limit student expenditures for school-sponsored activities, including expenditures for activities, uniforms, clubs, clinics, travel, and subject area and vocational leadership organizations, whether local, state, or national.

~~[F:]~~(7)(a) An LEA may solicit and accept a donation [Donations] or contribution[s] may be solicited and accepted] in accordance with the LEA's policies, but all such requests must clearly state that donations and contributions are voluntary.

~~(b) A donation is a fee if a student is required to make a donation in order to participate in an activity.~~

~~[G. In the collection of school fees, LEAs shall comply with statutes and State Tax Commission rules regarding the collection of state sales tax.]~~

#### **R277-407-6. Waivers.**

~~[A:]~~(1) An LEA shall provide, as part of any fee policy or schedule, for adequate waivers or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity to participate in a class or school-sponsored or supported activity because of

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an inability to pay a fee.

(2) An LEA shall waive textbook fees for eligible students in accordance with Subsection 53A-12-204(2).

(3) An [The] LEA [fee waiver policy] shall [include procedures to ensure that: —(1)] designate at least one person at an appropriate administrative level [is designated] in each school to [administer the policy and] review and grant fee waiver[s] requests[;].

(2)4) [the] An LEA shall administer the process for obtaining a fee waiver[s] or pursuing an alternative[s] [is administered] fairly, objectively, [and] without delay, and in a manner that avoids stigma, embarrassment, undue attention, and unreasonable burdens on students and parents[;].

(3)5) An LEA may not treat a student[s who have been granted] receiving a fee waiver[s] or provision[s] in lieu of a fee waiver[s] [are not treated] differently from other students [or identified to persons who do not need to know;].

(6) A school may not identify a student on fee waiver to students, staff members, or other persons who do not need to know.

(4)7)(a) An LEA shall ensure that a fee waiver[s] or other provision[s] in lieu of fee waiver[s are] is available to any student whose parent is unable to pay [the] a fee [in question;].

(b) A school or LEA administrator shall verify fee waivers [shall be verified by a school or LEA administrator] consistent with [requirements of Section 53A-12-103(5)] this rule[;].

[(5) the LEA requires documentation of fee waivers consistent with Section 53A-12-103(5);]

[(6)8] [schools and the] An LEA shall submit fee waiver compliance forms for each school consistent with Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994) that affirm compliance with [provisions of] the [P]permanent [I]injunction [and provisions of Section 53A-12-103(5)];.

[(7) the LEA does not retain required fee waiver verification documentation for protection of privacy and confidentiality of family income records consistent with 53A-12-103(6);]

[(8) textbook fees are waived for all eligible students in accordance with Sections 53A-12-201 and 53A-12-204 of the Utah Code and this Section;]

(9) An LEA shall adopt a policy for review of fee waiver requests which:

(a) gives parents [are given] the opportunity to review proposed alternatives to fee waivers;

[(10)b] establishes a timely appeal process [is available, including], which shall include the opportunity to appeal to the LEA or its designee; and

[(11)c] suspends any requirement that a given student pay a fee [is suspended] during any period [during] for which the student's eligibility for waiver is [being determined] under consideration or during which an appeal of denial of a fee waiver is [being appealed] in process[; and].

(1)2)0) [the LEA provides for balancing of financial inequities among schools so that

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†]The granting of waivers and provisions in lieu of fee waivers ~~[does]~~in an LEA may not produce significant inequities through unequal impact on individual schools.

(11) An LEA may pursue reasonable methods for collecting student fees, but may not, as a result of unpaid fees:

(a) exclude a student from school;

(b) refuse to issue a course grade; or

(c) withhold official student records, including written or electronic grade reports, diplomas or transcripts.

(12)(a) A school may withhold student records in accordance with Subsection 53A-11-806(2)(a).

(b) Notwithstanding Subsection (12)(a), a school may not withhold any records required for student enrollment or placement in a subsequent school.

(13) A school is not required to waive fees for class rings, letter jackets, school photos, or yearbooks, which are not required for participation in a class or activity.

(14) Expenditures for uniforms, costumes, clothing, or accessories, other than items of typical student dress, which are required for school attendance or participation in school activities, and expenditures for student travel as part of a school team, student group, or other school-approved trip, are fees requiring approval of the LEA, and are subject to the provisions of this section.

### **R277-407-7. Fee Waiver Eligibility.**

~~[B:]~~(1) A student is eligible for fee waiver [as follows] if an LEA receives verification that:

~~[(1) income verification consistent with Section 53A-12-103(5);]~~

(a) based on family income, the student qualifies for free school lunch under United States Department of Agriculture child nutrition program regulations;

~~[(2)b] the student to whom the fee applies receives [(SSI) Supplemental Security Income (ONLY THE STUDENT WHO RECEIVES THE SSI BENEFIT QUALIFIES FOR FEE WAIVERS)] SSI;~~

~~[(3)c] the family receives TANF funding [(currently qualified for financial assistance or food stamps)];~~

~~[(4)d] the student is in foster care through the Division of Child and Family Services [(under Utah or local government supervision)]; or~~

~~[(5)e] the student is in state custody.~~

~~[C:]~~(2) In lieu of income verification, [supporting documents shall be required for each special category of fee waiver-eligible students] an LEA may require alternative verification under the following circumstances:

~~[(1)a] [För] If a student's family receives TANF, an LEA may require a letter of decision covering the period for which a fee waiver is sought from the Utah Department of Workforce Services;~~

~~[(2)b] [För] If a student receives SSI, an LEA may require a benefit verification letter from the Social Security Administration;~~

~~[(3)c] [För] If a student is in state custody or foster care, an LEA may rely on the~~

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youth in custody required intake form and school enrollment letter or both provided by ~~the~~ a case worker from the Utah Division of Child and Family Services or the Utah Juvenile Justice Department.

~~[D.](3) [CASE BY CASE DETERMINATIONS MAY BE MADE FOR THOSE WHO DO NOT QUALIFY UNDER ONE OF THE FOREGOING STANDARDS]~~ A school may grant a fee waiver to a student, on a case by case basis, who does not qualify for a fee waiver under Subsection (1), but who, because of extenuating circumstances ~~[such as, but not limited to, exceptional financial burdens such as loss or substantial reduction of income or extraordinary medical expenses, are]~~ is not reasonably capable of paying the fee.

~~[E. Expenditures for uniforms, costumes, clothing, and accessories (other than items of typical student dress) which are required for school attendance, participation in choirs, pep clubs, drill teams, athletic teams, bands, orchestras, and other student groups, and expenditures for student travel as part of a school team, student group, or other school-approved trip, are fees requiring approval of the LEA, and are subject to the provisions of this section, consistent with *Doe v. Utah State Board of Education*, Civil No. 920903376, p. 43.]~~

#### [F. Student Records

~~— (1) An LEA or school may pursue reasonable methods to collect fees, but shall not exclude students from school or withhold official student records, including written or electronic grade reports, diploma, or transcripts, for fees owed.~~

~~— (2) An LEA or school may withhold the official student records of a student responsible for lost or damaged school property consistent with Section 53A-11-806, but may not withhold a student's records that would prevent a student from attending school or being properly placed in school.~~

~~— (3) Consistent with Section 53A-11-504, a school requested to forward a certified copy of a transferring student's record to a new school shall comply within 30 school days of the request.~~

~~— G. Charges for class rings, letter jackets, school photos, school yearbooks, and similar articles not required for participation in a class or activity are not fees and are not subject to the waiver requirements.]~~

### **R277-407-[7]8. Fee Waiver Reporting Requirements.**

(1) ~~[Beginning with fiscal year 1990-91, each]~~ An LEA shall attach to its annual S-3 statistical report for inclusion in the State Superintendent of Public Instruction's annual report the following:

(~~[1]~~a) a summary of:

~~(i)~~ the number of students in the LEA given fee waivers~~[-];~~

~~(ii)~~ the number of students who worked in lieu of a waiver~~[-];~~ and

~~(iii)~~ the total dollar value of student fees waived by the LEA;

(~~[2]~~b) a copy of the LEA's fee and fee waiver policies;

(~~[3]~~c) a copy of the LEA's fee schedule for students; and

(~~[4]~~d) the notice of fee waiver criteria provided by the LEA to a student's parent or guardian.

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~~([5]e) [consistent] a fee waiver compliance form[s provided by the Utah State Office of Education and required by *Doe v. Utah State Board of Education*, Civil No. 920903376] approved by the Superintendent for each school and LEA.~~

**KEY: education, school fees, students**

**Date of Enactment or Last Substantive Amendment: ~~[August 7, 2013]~~2017**

**Notice of Continuation: July 19, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; Art X Sec 2; 53A-1-401; 53A-12-102; ~~[53A-12-201; 53A-12-204; 53A-11-806(2);]~~ Doe v. Utah State Board of Education, Civil No. 920903376**